



February 2, 2001

SENATE BILL No. 97

DIGEST OF SB 97 (Updated February 1, 2001 2:24 PM - DI 51)

Citations Affected: IC 9-24; IC 31-37.

Synopsis: Curfew law. Makes additional defenses available to a child who is cited for a curfew violation, including engaged in an activity protected by federal or state law, including conduct involving the free exercise of religion, freedom of speech, and the right of assembly. Specifies that unless necessary to protect a child or the community, a law enforcement officer detaining a child for a curfew violation shall make a good faith effort to release the child to the child's parent, guardian, or custodian. (The introduced version of this bill was prepared by the interim study committee on juvenile and restorative justice.)

Effective: Upon passage.

Ford, Lanane, Kenley

January 8, 2001, read first time and referred to Committee on Judiciary.
February 1, 2001, amended, reported favorably — Do Pass.

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February 2, 2001

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

SENATE BILL No. 97

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 9-24-11-3, AS AMENDED BY P.L.225-1999,
2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: Sec. 3. (a) A license issued to an individual less
4 than eighteen (18) years of age is a probationary license.
5 (b) An individual holds a probationary license subject to the
6 following conditions:
7 (1) Except as provided in ~~IC 31-37-3-1~~, **IC 31-37-3**, the
8 individual may not operate a motor vehicle during the curfew
9 hours specified in IC 31-37-3-2.
10 (2) During the ninety (90) days following the issuance of the
11 probationary license, the individual may not operate a motor
12 vehicle in which there are passengers unless another individual
13 who:
14 (A) is at least twenty-one (21) years of age; and
15 (B) holds a valid operator's license issued under this article;
16 is present in the front seat of the motor vehicle.
17 (3) The individual may operate a motor vehicle only if the

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individual and each occupant of the motor vehicle has a safety belt properly fastened about the occupant's body at all times when the motor vehicle is in motion.

(c) An individual who holds a probationary license issued under this section may receive an operator's license, a chauffeur's license, a public passenger chauffeur's license, or a commercial driver's license when the individual is at least eighteen (18) years of age.

(d) A probationary license issued under this section:

(1) is valid for not more than four (4) years from the date the license is issued; and

(2) may not be renewed.

SECTION 2. IC 31-37-3-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3.5. (a) It is a defense to a violation under this chapter that the child was emancipated:**

(1) under IC 31-37-19-27 or IC 31-6-4-15.7 (before its repeal);

(2) by virtue of having married; or

(3) in accordance with the laws of another state or jurisdiction;

at the time that the child engaged in the prohibited conduct.

(b) It is a defense to a violation under this chapter that the child engaged in the prohibited conduct while:

(1) accompanied by the child's parent, guardian, or custodian;

(2) accompanied by an adult specified by the child's parent, guardian, or custodian;

(3) participating in, going to, or returning from:

(A) lawful employment;

(B) a school sanctioned activity;

(C) a religious event;

(D) an emergency involving the protection of a person or property from an imminent threat of serious bodily injury or substantial damage;

(E) an activity involving the exercise of the child's rights protected under the First Amendment to the United States Constitution or Article 1, Section 31 of the Constitution of the State of Indiana, or both, such as freedom of speech and the right of assembly; or

(F) an activity conducted by a nonprofit or governmental entity that provides recreation, education, training, or other care under the supervision of one (1) or more adults;

or

(4) engaged in interstate or international travel from a

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location outside Indiana to another location outside Indiana.

SECTION 3. IC 31-37-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) If a child is not taken into custody under an order of the court, the law enforcement officer may release the child or may release the child to the child's parent, guardian, or custodian upon the person's written promise to bring the child before the juvenile court at a time specified. ~~However,~~ **Subject to subsection (c),** the law enforcement officer may place the child in detention if the law enforcement officer reasonably believes that:

- (1) the child is unlikely to appear before the juvenile court for subsequent proceedings;
- (2) the child has committed an act that would be murder or a Class A or Class B felony if committed by an adult;
- (3) detention is essential to protect the child or the community;
- (4) the parent, guardian, or custodian:
 - (A) cannot be located; or
 - (B) is unable or unwilling to take custody of the child; or
- (5) the child has a reasonable basis for requesting that the child not be released.

(b) If a child is detained for a reason specified in subsection (a)(4) or (a)(5), the child shall be detained under IC 31-37-7-1.

(c) Unless a law enforcement officer determines that detention is essential to protect a child or the community, the law enforcement officer who detains a child for a violation of the curfew law under IC 31-37-3 shall make a good faith effort to release the child to the child's parent, guardian, or custodian within a reasonable time after the child is detained.

SECTION 4. IC 31-37-3-1 IS REPEALED [EFFECTIVE UPON PASSAGE].

SECTION 5. **An emergency is declared for this act.**

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COMMITTEE REPORT

Mr. President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 97, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to SB 97 as introduced.)

BRAY, Chairperson

Committee Vote: Yeas 10, Nays 0.

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